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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,585	09/22/2005	Stefan Berndt	2003P04440WOUS	1386

7590 08/19/2008  
Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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SQUIRES, BRETT S

ART UNIT	PAPER NUMBER
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2131

MAIL DATE	DELIVERY MODE
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08/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,585	<b>Applicant(s)</b> BERNDT ET AL.	
	<b>Examiner</b> BRETT SQUIRES	<b>Art Unit</b> 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/22/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### ***Specification***

1. The substitute specification filed September 22, 2005 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: an annotated version of the substitute specification with markings showing all of the changes relative to the immediate prior version of the specification of record has not been submitted. See MPEP 608.01(q).
2. The disclosure is objected to because of the following informalities: on page 6 line 6 the "the gateway" is referenced using the incorrect ref. no. 102 instead of the correct ref. no. 103. Appropriate correction is required.

### ***Claim Objections***

3. Claims 21-25 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 7-9, 11, and 17. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Additionally, indefinite articles such as "a" and "an" are interpreted to mean at least one, accordingly replacing an indefinite article with at least one does not change the claim scope.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 22 recites the limitation "the one piece of status information," in page 6 of the preliminary amendment filed September 22, 2005. There is insufficient antecedent basis for this limitation in the claim because independent claim 21, which claim 22 directly depends from, recites "at least one piece of status information." Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 26 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 26 recites "a control program for operating a communication terminal for packet-oriented data transmission," this recitation is functional descriptive material and does not fall into at least one of the four statutory classes defined by 35 U.S.C. 101. A computer program, such as the recited control program, only imparts functionality when employed as a computer component, such as when a computer program is recorded on a computer readable medium. If a claim covers material not found in any of those four categories, then the claim falls outside the plainly expressed scope of 35 U.S.C. 101, even if the subject matter is otherwise new and useful. *See In re Nuijten 84 USPQ2d 1495 (Fed. Cir. 2007)*

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-26 are rejected under 35 U.S.C. 103(a) as being obvious over Furuno (US 2003/0167343) in view of Lewis et al. (US 2006.0107060).

Regarding Claims 7, 21, and 26:

Furuno discloses a method for operating Voice over Internet Protocol communication system having a communication terminal ("End points" See figs. 15, 16 ref. nos. 103-1, 103-2, 103-n and paragraph 5), a first control unit associated with the communication terminal for the resolution and/ or conversion of network address ("Primary Gatekeeper" See figs. 15, 16, ref. no. 101 and paragraphs 5-7), transmitting a request to associate the communication terminal with at least one second control unit ("Alternate Gatekeeper" See figs. 15, 16, ref. no. 102) if the first control unit fails ("The endpoints do not register themselves to the alternate gatekeeper until they find their primary gatekeeper unresponsive." See paragraph 9), and associating the communications terminal with the second control unit (See paragraphs 9-10).

Furuno does not disclose storing a status information for the communication terminal in a memory associated with the communication terminal, providing the status information with a digital signature calculated from the status information by a private key for an asymmetrical encoding method, the request transmitted to the gatekeeper

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has the status information as the digital signature, and checking the digital signature for the event of a positive check result.

Lewis discloses a method for authenticating a cellular telephone that stores a status information ("The attribute data stored as part of the descriptor." See fig. 1 ref. no. 114 and paragraph 44) for the communication terminal in a memory associated with the communication terminal ("External Memory" See fig. 1 ref. no. 105 and paragraph 44), provides the status information with a digital signature calculated from the status information by a private key for an asymmetrical encoding method ("The source data is hashed using a known hash function and encrypted using the signature private key and the signature algorithm." See paragraph 60), the request transmitted to a digital device has the status information as the digital signature (See figs. 2A, 2B ref. nos. 210, 220, paragraphs 52 and 60), checking the digital signature for the event of a positive check ("If the data match, then the descriptor data read from the smart chip is the same as that which was used to generate the digital signature." See paragraph 63).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method for operating Voice over Internet Protocol communication system disclosed by Furuno to include authenticating the communication system users such as that taught by Lewis in order to thieves from fraudulently billing the users for other telephone calls (See Lewis paragraph 25).

Regarding Claims 8 and 22:

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The combination of Furuno and Lewis discloses the attribute information is updated at least at a predefinable time upon the initiation of the first or second control unit (See Lewis figs. 5A and 5B and paragraph 71). The rational for combining is the same as applied above.

Regarding Claims 9-10 and 23:

The combination of Furuno and Lewis discloses the digital signature is calculated from a hash value acquired for the status information (See Lewis paragraphs 60-62).

The rational for combining is the same as applied above.

Regarding Claims 11-14 and 24:

The combination of Furuno and Lewis discloses the hash value is calculated for the status information for the purposes of checking the digital signature and the hash value is compared for a match with a digital signature decoded by using the public key associated with the first control unit ("The digital device obtains the signature public key used for verifying the digital signature with the descriptor data." and "The decrypted digital signature is compared to the hash descriptor data." See Lewis paragraphs 58 and 62-63). The rational for combining is the same as applied above.

Regarding Claims 15-20 and 25:

The combination of Furuno and Lewis discloses a message digest no. 5 algorithm is used for calculating the digital signature (See Lewis paragraph 62). The rational for combining is the same as applied above.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRETT SQUIRES whose telephone number is (571) 272-8021. The examiner can normally be reached on 9:00am - 5:30pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BS/  
/Ayaz R. Sheikh/  
Supervisory Patent Examiner, Art Unit 2131